

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 15. REVENUE

#### CHAPTER 3. DEPARTMENT OF REVENUE LUXURY TAX SECTION

[R08-163]

#### PREAMBLE

#### **1. Sections Affected**

#### **Rulemaking Action**

R15-3-201	Amend
Article 3	Amend
R15-3-301	Amend
R15-3-302	Amend
R15-3-303	Amend
R15-3-304	Amend
R15-3-305	Amend
R15-3-307	Amend
R15-3-308	Amend
R15-3-309	New Section
R15-3-310	Amend
R15-3-311	Amend
R15-3-312	Amend
R15-3-313	New Section
R15-3-314	Amend
R15-3-315	Amend
R15-3-316	Amend
Article 4	Amend
R15-3-401	Amend
R15-3-402	Amend
R15-3-403	Amend
R15-3-404	New Section
R15-3-405	New Section
R15-3-406	Amend
R15-3-407	Amend
R15-3-408	Amend
R15-3-410	Amend
R15-3-501	Amend

#### **2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. § 42-3004 et seq.

#### **3. A list of all previous notices appearing the *Register* addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 2153, May 30, 2008 (*in this issue*)

#### **4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Hsin Pai, Analyst

Address: Tax Policy and Research Division

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Department of Revenue  
1600 W. Monroe St., Rm. 810  
Phoenix, AZ 85007-2650

Telephone: (602) 716-6851  
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Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at [www.azdor.gov/ResearchStats/Proposedrulesmainmenu.htm](http://www.azdor.gov/ResearchStats/Proposedrulesmainmenu.htm).

**5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Department is amending all rules on the administration and enforcement of Arizona luxury tax to conform to the Secretary of State's drafting guidelines and provide enhanced clarity and guidance to affected taxpayers. The Department last made substantial revisions to the majority of these rules in 1999. Since then, there have been substantial changes to the statutes governing the administration and enforcement of luxury tax for both tobacco products and alcoholic beverages, necessitating the current rulemaking.

**6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

There should be no significant economic impact arising solely from the proposed rules. As previously mentioned, this rulemaking is a necessary step in amending rules that fail to account for statutory changes, thereby providing clear and understandable guidance to interested parties and the general public that accurately reflects current agency practices. The Department expects that the benefits of the amended rules to the public and the agency from achieving a better understanding of taxes on alcoholic beverages and tobacco products will be greater than the costs.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Hsin Pai, Analyst  
Address: Tax Policy and Research Division  
Department of Revenue  
1600 W. Monroe St., Rm. 810  
Phoenix, AZ 85007-2650  
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Fax: (602) 716-7995  
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**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceeding is scheduled, but any written comments on the Department's rulemaking may be sent to the agency personnel identified in item 4. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Any material incorporated by reference and its location in the rules:**

None

**13. The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE  
LUXURY TAX SECTION

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R15-3-501. ~~Return and payment of tax — general~~ Filing of Luxury Tax Reports and Returns

ARTICLE 2. GENERAL

R15-3-201. Definitions

The following definitions apply to the rules in In this Chapter, unless the context requires otherwise specified:

1. ~~“Indian” means any individual registered on the tribal rolls of the Indian tribe for whose benefit the reservation was created.~~
2. ~~“Indian Reservation” means all lands within the limits of areas set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law, or executive order and which are currently recognized as Indian Reservations by the United States Department of the Interior.~~
3. ~~“Indian Tribe” means any organized nation, tribe, band or community recognized as an “Indian tribe” by the United States Department of the Interior.~~
1. “Alcoholic beverage” means cider, malt liquor, spirituous liquor, and vinous liquor, as these terms are defined in A.R.S. § 42-3001.
2. “Business location” means either of the following:
  - a. Pursuant to A.R.S. § 42-3151(A), any place where books, papers, invoices, or records of a wholesaler, distributor, or retailer are open for inspection by the Department; or
  - b. Pursuant to A.R.S. § 42-3151(B), any place where luxuries are placed, produced, stored, or offered for sale.
3. “Cigar” has the same meaning as prescribed in A.R.S. § 42-3001.
4. “Cigarette” has the same meaning as prescribed in A.R.S. § 42-3001.
5. “Cigarette distributor” has the same meaning as prescribed in A.R.S. § 42-3001.
6. “Consumer” has the same meaning as prescribed in A.R.S. § 42-3001.

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7. "Distributor" has the same meaning as prescribed in A.R.S. § 42-3001.
8. "Luxury" has the same meaning prescribed in A.R.S. § 42-3001.
- 4-9. "Other tobacco products" means all types of tobacco products fit for human consumption other than cigarettes included in A.R.S. §§ 42-3052(6) through (9).
5. "Place of business," "business location," and "location" mean the place where luxuries are sold, stored or kept for the purpose of sale or distribution or, if sold from a vending machine or mobile unit, the location where records of sale are available for examination.
6. "Returns" means Cigarette Distributors Monthly Report; Distributor's Monthly Return of Cigars or Tobacco Products Received; Wholesaler's Return of Vinous and Malt Liquor Purchased; or Wholesaler's Return of Spirituous Liquor Sold.
10. "Primary source of supply" has the same meaning as prescribed in A.R.S. § 4-243.01(E)(1).
11. "Retailer" has the same meaning as prescribed in A.R.S. § 42-3001.
- 7-12. "Sale" means the act of soliciting, receiving an order for, keeping or offering for sale, delivering for value, peddling, or keeping with intent to sell; any of the luxuries taxable under this Chapter.
13. "Tobacco products" has the same meaning as prescribed in A.R.S. § 42-3001.
14. "Tobacco taxes" means all taxes imposed on tobacco products under A.R.S. Title 42, Chapter 3.

**ARTICLE 3. TAXES ON TOBACCO PRODUCTS**

**R15-3-301. Licensing**

- A. An individual shall obtain a distributor's license before engaging in business as a distributor. The Department issues shall issue a tobacco distributor's license to the individual named in the license application for a business making the initial sale or distribution of tobacco products in this state, to a specific person pursuant to the requirements of A.R.S. § 42-3201(A). The A licensee shall not transfer the tobacco its distributor's license to a new owner when selling the its business. A person shall obtain a tobacco distributor's license before engaging in business as a tobacco distributor.
- B. Court appointed trustees, receivers, and others in the case In cases of liquidation, insolvency, or bankruptcy where the business continues to be operated businesses remain in operation as distributors of tobacco products, that sell tobacco products subject to tax court-appointed trustees, receivers, or others shall obtain a tobacco distributor's license distributors' licenses in their own name names.
- C. A licensee that changes its legal entity shall apply for a new tobacco distributor's license. A licensee that changes its form of business shall apply for a new tobacco distributor's license. For example: A licensee that operates as a sole proprietorship incorporates the business. A corporation is a different form of business. The licensee shall apply for a new tobacco distributor's license if it changes its legal entity or otherwise changes the legal structure of its business.
- D. A licensee shall obtain a tobacco distributor's license for each business location that maintains an inventory of tobacco products and shall display the license in a conspicuous place at the business location.
- E. A licensee shall display the tobacco distributor's license in a conspicuous place at each business location. Except as provided in subsection (F), the Department shall issue a license for a business location only if the business maintains any books, papers, invoices, records, and luxuries subject to the Department's inspection under A.R.S. § 42-3151 in a place and manner at the business location that is accessible to the Department during normal business hours without a judicial warrant or prior written consent of the licensee. For example, if a licensee or agent of the licensee also uses the business location for residential purposes, the licensee shall maintain its books, papers, invoices, records, and luxuries in a place and manner at the business location that does not require the Department to obtain a judicial warrant or written consent from the licensee or an agent of the licensee before conducting an inspection during normal business hours.
- F. If a business maintains any books, papers, invoices, or records electronically, the Department shall issue a license for a business location only if the business provides access to the data for the Department's inspection at the business location, regardless of the storage location of the data. The business must provide the access at the business location in a place and manner that is accessible to the Department during normal business hours without a judicial warrant or prior written consent of the licensee.
- G. If an applicant remits payment of the licensee fee for its business location by cashier's check, company check, or money order, the payment shall bear one of the following:
  1. The name of the applicant as the purchaser or remitter, if the payment is made by cashier's check or money order, or
  2. The name of the applicant as the drawer or maker, if the payment is made by company check.
- H. Pursuant to A.R.S. § 42-3201(B), the Department may request an applicant for a distributor's license to submit additional supporting documentation for the purpose of enforcing this Section.

**R15-3-302. Tobacco Products from Manufacturers Not Participating in the Master Settlement Agreement**

- A. For purposes of In this Section, the following definitions apply:
  1. "Cigarette" has the same meaning as prescribed in A.R.S. § 44-7101(A), Section 2(d).
  2. "Department" means the Arizona Department of Revenue.
  3. "Excise taxes" means taxes imposed on cigarettes under A.R.S. Title 42, Chapter 3.

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4. "Master Settlement Agreement" has the meaning prescribed in A.R.S. § 44-7101(A), Section 2(e).
  5. "Non-participating manufacturer" means a tobacco product manufacturer that is not a "participating manufacturer."
  6. "Original participating manufacturers" means Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, and R.J. Reynolds Tobacco Company, and the respective successors of each of them.
  7. "Participating manufacturer" means the "original participating manufacturers" and "subsequent participating manufacturers."
  8. "Subsequent participating manufacturers" means tobacco product manufacturers that have become signatories to the Master Settlement Agreement but that are not original participating manufacturers, and the respective successors of each of them.
  9. "Tobacco distributor" means a "distributor" ~~as defined in A.R.S. § 42-3001(5)~~ that has paid or is obligated to pay excise taxes.
  10. "Tobacco product manufacturer" has the same meaning as prescribed in A.R.S. § 44-7101(A), Section 2(i).
- B.** The Department shall maintain a current list of participating manufacturers and make it available to tobacco distributors.
- C.** A tobacco distributor shall report monthly to the Department on a form provided by the Department:
1. The brand names of each non-participating manufacturer's cigarettes received by the tobacco distributor in Arizona;
  2. The brand names of each non-participating manufacturer's cigarettes received by the tobacco distributor outside Arizona and sold by the tobacco distributor in Arizona;
  3. The name and address of the non-participating manufacturer of each brand of cigarettes identified by the tobacco distributor;
  4. The number of individual cigarettes of each brand of each non-participating manufacturer sold in Arizona by the tobacco distributor during the preceding month, separately stating:
    - a. The number of cigarette packages sold and the number of individual cigarettes in each package; and
    - b. The number of "roll-your-own" tobacco containers sold and the number of individual cigarettes in each container;
  5. The amount of excise taxes paid or to be paid on the cigarettes addressed in subsection (C)(4), separately stating:
    - a. The amount of excise taxes paid by purchasing and affixing tax stamps to cigarette packages;
    - b. The amount of excise taxes to be paid with the tobacco distributor's tax return for "roll-your-own" tobacco containers; and
    - c. Any other amount of excise taxes paid or to be paid on the cigarettes not addressed in subsections (C)(5)(a) or (b);
  6. The number of individual cigarettes of each brand of each non-participating manufacturer received by the tobacco distributor in Arizona, separately stating:
    - a. The number of cigarette packages received and the number of individual cigarettes in each package; and
    - b. The number of "roll-your-own" tobacco containers received and the number of individual cigarettes in each container;
  7. The number of individual cigarettes of each brand of each non-participating manufacturer that the tobacco distributor exported from Arizona without payment of excise taxes, separately stating:
    - a. The number of cigarette packages exported and the number of individual cigarettes in each package; and
    - b. The number of "roll-your-own" tobacco containers exported and the number of individual cigarettes in each container;
  8. The number of individual cigarettes of each brand of each non-participating manufacturer for which the tobacco distributor obtained a tax refund under A.R.S. § 42-3008, separately stating:
    - a. The number of cigarette packages for which the tobacco distributor obtained a tax refund and the number of individual cigarettes in each package; and
    - b. The number of "roll-your-own" tobacco containers for which the tobacco distributor obtained a tax refund and the number of individual cigarettes in each container; and
  9. The invoice number (and if subsequently requested by the Department, a copy of each invoice) relating to the tobacco distributor's:
    - a. Purchase or acquisition of any non-participating manufacturer's cigarettes received or sold by the tobacco distributor in Arizona; and
    - b. Export, if any, of any non-participating manufacturer's cigarettes from Arizona.
- D.** A tobacco distributor shall file the report required under subsection (C) with the Department by the 20th day of the month following the month for which the report is made. Reports for cigarettes sold in Arizona after April 24, 2000, and before the effective date of this Section are due 60 days after the effective date of this Section.
- E.** A tobacco distributor shall maintain all records relating to or reflecting its purchase and sale of non-participating manufacturers' cigarettes after April 24, 2000, for a period of four years after the date of sale. The tobacco distributor shall make the records available to the Department upon request by the Department.
- F.** Subject to the requirements of R15-3-308, the Department may revoke a license issued to a tobacco distributor under

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A.R.S. § 42-3201 if the tobacco distributor fails to comply with this Section, based on the severity of the violations.

**R15-3-303. ~~Luxury Tax Tobacco Taxes~~ on Other Tobacco Products**

The Department shall consider ~~Arizona luxury tax tobacco taxes~~ paid at the time of the sale, distribution, or transfer of other tobacco products if distributors report and remit the ~~tax taxes~~ on the products in accordance with the manner, method, and time prescribed by A.R.S. § 42-3208. Sworn returns prepared and remitted by distributors pursuant to A.R.S. § 42-3208 constitute official indicia that ~~luxury tax has tobacco taxes have~~ been paid on the other tobacco products.

**R15-3-304. Change of Licensee's Business Name**

A licensee that changes the name under which ~~the its~~ business operates shall notify the Department in writing within 30 days of the name change and request a reissuance of its ~~tobacco~~ distributor's license for each business location described in R15-3-301(D).

**R15-3-305. Change of Licensee's Business Location or Mailing Address**

- A. ~~A Except as provided in subsection (C), a licensee shall notify the Department in writing within 30 days of a change in the physical location of the a business location described in R15-3-301(D) and request a reissuance of its tobacco distributor's license for each the business location.~~
- B. ~~A Except as provided in subsection (C), a licensee shall notify the Department in writing within 30 days of a change in the licensee's mailing address. The licensee shall specify whether the change is for the mailing address only.~~
- C. A licensee that has received a service of documents from the Department pursuant to A.R.S. § 41-1092.04 shall notify the Department of any change in the licensee's business location or mailing address that would affect the subsequent service of documents within five days of the change.

**R15-3-307. Cancellation of Distributor's License**

If a ~~licensee sells or terminates its business is sold or terminated~~, the licensee shall notify the Department in writing within 30 days of the sale or termination ~~of the business, giving including the date the business was sold or terminated of the sale or termination~~. The Department shall cancel the license, effective as of the date of the sale or termination of the business.

**R15-3-308. Revocation or Suspension of Distributor's License**

- A. The Department may revoke or suspend a license for ~~violation of the provisions of A.R.S. Title 42, Chapter 3 or this Article~~; either of the following:
- Two or more violations within a three-year period of any provision of A.R.S. Title 42 or this Article, pursuant to A.R.S. § 42-3201(G), or
  - Any violation of A.R.S. § 44-7111.
- B. The Department shall give written notice of ~~the a~~ revocation or suspension to a licensee ~~30 days prior to the effective date of the revocation~~ by delivering the notice to the licensee by certified mail, ~~at return receipt requested, to the licensee's place of business location or by personal service.~~
- C. ~~A The licensee has 30 days after receipt of the notice is mailed to appeal the revocation or suspension, in writing, to the Department. If the licensee does not file an appeal within the 30-day period, the Department's determination becomes final. If the notice is delivered by certified mail, return receipt requested, the licensee is presumed to have received notice upon the date shown on the return receipt signed by or on behalf of the licensee, or, if the receipt is unsigned, upon the date that the United States Postal Service attempted to deliver the notice. If the notice is delivered by personal service, the licensee is presumed to have received notice upon the date of service.~~
- D. ~~If the licensee does not file an appeal within the 30-day period, the Department's determination becomes final. The Department shall consider the appeal filed on the earlier of the date received by the Department or the date deposited in the United States mail as evidenced by a postmark. If the licensee files a timely appeal, the Department shall request a hearing by the Office of Administrative Hearings.~~
- E. If the licensee appeals the revocation or suspension, the Department shall suspend action until the final order of the Department has been issued under A.A.C. R15-10-131. Nevertheless, pursuant to A.R.S. §§ 41-1092.11(B) and 42-3201(G), the Department may order the summary suspension of a license, pending a hearing by the Office of Administrative Hearings on the revocation or suspension, if the Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates the finding in the written notice described in subsection (B).

**R15-3-309. ~~Repeated~~ Inspection of Tobacco Product Retailers**

- A. A tobacco product retailer shall maintain any books, papers, invoices, records, and luxuries subject to the Department's inspection under A.R.S. § 42-3151 in a place and manner at the retail operation that is accessible to the Department during normal business hours without a judicial warrant or prior written consent of the retailer. For example, if a retailer or agent of the retailer also uses the business location for residential purposes, the retailer shall maintain its books, papers, invoices, records, and luxuries in a place and manner at the business location that does not require the Department to obtain a judicial warrant or written consent from the retailer or an agent of the retailer before conducting an inspection during normal business hours.

- B.** If the retailer maintains any books, papers, invoices, or records electronically, the business shall provide access to the data for the Department's inspection at the business location, regardless of the storage location of the data. The retailer must provide the access at the business location in a place and manner that is accessible to the Department during normal business hours without a judicial warrant or prior written consent of the retailer.

**R15-3-310. Vending Machine Identification and Inspection**

- A.** A licensee An owner, operator, or person in possession of a vending machine shall ensure that the Department's agents are able to any agent of the Department can inspect all cigarettes that are distributed through or by offered for sale using the vending machines machine. The licensee Except as provided in subsection (B), the owner, operator, or person in possession of the vending machine shall visibly display cigarettes in all the vending machines machine so the Department's agents agent can inspect the cigarettes in the machines machine to verify that the required cigarette tax stamps are properly affixed; unless subsection (B) of this rule applies.
- B.** If the cigarettes cannot be visually inspected in a vending machine, the owner, operator, or person in possession of the machine shall have access to the cigarettes in the machine and shall permit agents of the Department Department's agent to inspect the cigarettes visually.

**R15-3-311. Cigarette Distributor's Monthly Report Return**

Every distributor selling cigarettes subject to the luxury tax under A.R.S. Title 42, Chapter 3 shall file with the Department a "Cigarette Distributor's Monthly Report" on the 20th of each month showing:

1. The quantity of cigarettes and cigarette tax stamps purchased and sold or otherwise disposed of during the calendar month immediately preceding the month in which the report is filed;
2. The quantity of cigarettes and stamps on hand at the beginning and at the end of the month.

A cigarette distributor shall file an Arizona Form 800-20 (Cigarette Distributor's Monthly Return), Arizona Form 800-25 (Cigarette Distributor's Monthly Return), Arizona Form 800NR (Cigarette Distributor's Monthly Return for Nonresident Licensed Distributors), or Arizona Form 841 (Cigarette Distributor's Monthly Report of Cigarettes Received in Packages of Other Than Packages of 20 or 25 Cigarettes), as applicable, on a monthly basis with the Department as prescribed in A.R.S. § 42-3211.

**R15-3-312. Purchase of Cigarette Tax Stamps**

- A.** A licensed tobacco cigarette distributor shall obtain cigarette tax stamps only from the Department. The Department shall not provide cigarette tax stamps to a person who does not hold a valid distributor's license issued by the Department.
- B.** A cigarette distributor shall not sell, lend, give, purchase, or otherwise transfer cigarette tax stamps to or for another person.
- C.** If a cigarette distributor remits payment for cigarette tax stamps by cashier's check, company check, or money order, the payment shall bear one of the following:
1. The name of the cigarette distributor purchasing the cigarette tax stamps as the purchaser or remitter, if the payment is made by cashier's check or money order, or
  2. The name of the cigarette distributor purchasing the cigarette tax stamps as the drawer or maker, if the payment is made by company check.

**R15-3-313. Expired Invoice Issued by a Distributor of Other Tobacco Products**

For the purpose of enforcing A.R.S. § 42-3202 and pursuant to A.R.S. § 42-3004, a distributor of other tobacco products shall issue an invoice or equivalent documentation for each transaction that involves the sale, purchase, or consignment of other tobacco products to the distributor's customer. The invoice or equivalent documentation shall include the license number of the distributor, which the distributor's customer may use to determine whether the license is current and valid.

**R15-3-314. Sales in Interstate or Foreign Commerce**

Cigarettes or other tobacco Tobacco products sold by licensed distributors to purchasers located outside the state are exempt from the tax imposed by A.R.S. Title 42, Chapter 3, tobacco taxes if the following conditions are met:

1. The cigarettes or other tobacco products are shipped or delivered by the distributor to a location outside the state for use outside the state; and
2. The distributor files a an Arizona Form 800-20 "(Cigarette Distributor's Monthly Report" Return), Arizona Form 800-25 (Cigarette Distributor's Monthly Return), Arizona Form 800NR (Cigarette Distributor's Monthly Return for Nonresident Licensed Distributors), Arizona Form 841 (Cigarette Distributor's Monthly Report of Cigarettes Received in Packages of Other Than Packages of 20 or 25 Cigarettes), or a "Arizona Form 819 (Distributor's Monthly Return of Cigars or Other and Tobacco Products Purchased," Received), or Arizona Form 819NR (Nonresident Distributor's Monthly Return of Cigars and Tobacco Products Sold), as applicable, indicating for the tobacco products being sold;
3. The distributor, on the form filed under subsection (2), indicates the amount of out-of-state sales in the appropriate section and the party to whom the sales were made; and, along with each of the following:
  - a. Submits one One copy of the return or report to the Arizona Department of Revenue;

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- b. ~~Submits one~~ One copy of the return or report to the taxing authority of the state of destination of the cigarettes or other tobacco products; and
- e-4. ~~Retains~~ The distributor retains one copy of the return or report for ~~two~~ four years following the close of the calendar year in which the ~~sale is made~~ cigarettes are sold or ~~two years following the close of the calendar year in which the~~ other tobacco products are sold.

**R15-3-315. Credit Purchases of ~~Revenue~~ Cigarette Tax Stamps**

A cigarette distributor may increase its credit limit for cigarette tax stamp purchases by increasing the amount of ~~the~~ its bond on file with the Department.

**R15-3-316. Sale of Unstamped Cigarettes**

- A.** ~~A~~ Except as otherwise provided in A.R.S. Title 42, Chapter 3, Article 5, a cigarette distributor shall file a ~~an Arizona Form 800-20 or (Cigarette Distributor's Monthly Return), Arizona Form 800-25, (Cigarette Distributor's Monthly Report Return), or Arizona Form 800NR (Cigarette Distributor's Monthly Return for Nonresident Licensed Distributors)~~ with the Department showing that the cigarette distributor has purchased a sufficient number of cigarette tax stamps to be affixed to all cigarettes it distributes in this state during the period. If the cigarette distributor does not provide this information, the Department shall presume that the cigarette distributor sold unstamped cigarettes. In that case, the Department shall determine the amount of unstamped cigarettes sold by the cigarette distributor and shall issue a proposed deficiency assessment for any luxury tax found due. The proposed deficiency assessment becomes final unless the cigarette distributor protests the assessment within 45 days under A.R.S. § 42-1108 and 15 A.A.C. 10, Article 1.
- B.** If a retailer maintains or possesses cigarettes at its place of business that, upon the Department's inspection, are loose or otherwise repackaged in a manner different from that distributed for sale by the cigarette manufacturer, the Department shall presume, unless the retailer establishes the contrary, that the retailer is offering the cigarettes for sale in violation of A.R.S. § 42-3203(E).

**ARTICLE 4. ~~LIQUOR TAX ON ALCOHOLIC BEVERAGES~~**

**R15-3-401. Tax Return Filing Requirements ~~—Vinous or~~ for a Malt Liquor Wholesaler**

On or before the statutory deadline each month, each wholesaler of ~~vinous or~~ malt liquor shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor License and Control, and identification number;
2. The itemized ~~quantities~~ quantity of ~~vinous and malt liquors~~ liquor purchased during the month the tax accrued, listed by supplier and invoice number;
3. The itemized ~~quantities~~ quantity of tax-free sales of ~~vinous and malt liquors~~ liquor during the month the tax accrued, listed by purchaser and invoice number;
4. The itemized ~~quantities~~ quantity of out-of-state sales of ~~vinous and malt liquors~~ liquor during the month the tax accrued, listed by purchaser and invoice number;
5. The itemized ~~quantities~~ quantity of ~~vinous and malt liquors~~ liquor purchased from other licensed Arizona wholesalers during the month the tax accrued, listed by supplier and invoice number;
6. The total quantity of ~~vinous and malt liquors~~ liquor purchased in Arizona during the month the tax accrued;
7. The amount of luxury tax accrued during the month; and
8. Supporting documentation for the information provided in the return.

**R15-3-402. Tax Return Filing Requirements – for a Spirituous ~~or Vinous~~ Liquor Wholesaler**

On or before the statutory deadline each month, each spirituous ~~or vinous~~ liquor wholesaler shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor License and Control, and identification number;
2. The itemized ~~quantities~~ quantity of spirituous ~~liquors~~ or vinous liquor sold during the month the tax accrued, listed by purchaser and invoice number;
3. The itemized ~~quantities~~ quantity of spirituous ~~liquors~~ or vinous liquor received during the month the tax accrued, listed by supplier and invoice number;
4. The total quantity of spirituous ~~liquors~~ or vinous liquor available at the beginning and at the end of the month the tax accrued;
5. The itemized ~~quantities~~ quantity of tax-free sales of spirituous ~~liquors~~ or vinous liquor during the month the tax accrued, listed by purchaser and invoice number;
6. The itemized ~~quantities~~ quantity of out-of-state sales of spirituous ~~liquors~~ or vinous liquor during the month the tax accrued, listed by purchaser and invoice number;
7. The itemized ~~quantities~~ quantity of spirituous ~~liquors~~ or vinous liquor sold to other licensed Arizona wholesalers during the month the tax accrued, listed by purchaser and invoice number;



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8. The total quantity of spirituous ~~liquors~~ or vinous liquor sold in Arizona during the month the tax accrued;
9. The amount of luxury tax accrued during the month; and
10. Supporting documentation for the information provided in the return.

**R15-3-403. Tax Return Filing Requirements – for a Domestic Microbrewery, Domestic Farm Winery, Domestic Cider Producer, or Beer Manufacturer**

On or before the statutory deadline each month, each domestic microbrewery, domestic farm winery including domestic cider producers, or beer manufacturer subject to A.R.S. § 42-3355 shall file a return on a form prescribed by the Department. The return shall show the following:

1. Taxpayer's name, mailing address, business address, liquor license number issued by the Department of Liquor License and Control, and identification number;
2. The itemized ~~quantities~~ quantity of tax-free sales to Arizona purchasers during the month the tax accrued, listed by purchaser and invoice number;
3. ~~The For taxpayers filing for locations physically within the state, the~~ itemized ~~quantities~~ quantity of out-of-state sales during the month the tax accrued, listed by purchaser and invoice number;
4. The itemized ~~quantities~~ quantity of ~~liquors or beer~~ cider, malt liquor, or vinous liquor sold to other licensed Arizona wholesalers during the month the tax accrued, listed by purchaser and invoice number;
5. The total quantity of ~~liquors or beer~~ cider, malt liquor, or vinous liquor sold ~~in Arizona~~ to Arizona purchasers during the month the tax accrued;
6. The amount of luxury tax accrued during the month; and
7. Supporting documentation for the information provided in the return.

**R15-3-404. ~~Repeated~~ Taxes Remitted**

Any alcoholic beverage producer required under A.R.S. Title 4, Chapter 2, Article 1 to remit transaction privilege tax shall remit the tax under the retail classification (see 15 A.A.C. 5, Article 1) on its gross receipts from the sale in addition to luxury tax, regardless of its business location.

**R15-3-405. ~~Repeated~~ Alcoholic Beverage Samples**

Samples of alcoholic beverages, whether intended for personal or commercial use and consumption, and whether provided for a consideration, are subject to luxury tax at the rates prescribed in A.R.S. § 42-3052 unless otherwise exempt under A.R.S. Title 42, Chapter 3.

**R15-3-406. Metric Conversion**

To compute the luxury tax for ~~liquors~~ alcoholic beverages in metric containers, each taxpayer shall multiply the quantity in liters by 0.264172 to determine the equivalent quantity in gallons.

**R15-3-407. Filing Requirements for a Primary Source of Supply – ~~Failure to Report Sales to Arizona Wholesalers~~**

- A. At the time of making a sale to an Arizona wholesaler, a primary source of supply shall file with the Department a copy of the sales invoice issued to the wholesaler that provides the information required under A.R.S. § 42-3352.
- B. If the Department determines that a primary source of supply failed to transmit to the Department copies of all invoices for sales of alcoholic beverages to Arizona wholesalers within the state as required by A.R.S. § 4-243.01, the Department shall instruct each Arizona wholesaler not to accept any shipment of alcoholic beverages from the primary source of supply for one year.

**R15-3-408. ~~Arizona Wholesaler~~ Failure to Report Purchases from a Primary Source of Supply**

If the Department determines that an Arizona wholesaler failed to transmit to the Department copies of all invoices for alcoholic beverages purchased from any primary source of supply as required by A.R.S. § 4-243.01, the Department shall report the failure to the Department of Liquor ~~Licenses~~ License and Control.

**R15-3-410. Failure to File a Return or Pay Tax**

The Department shall report any failure by a licensee to file a return or pay the tax due to the Department of Liquor ~~Licenses~~ License and Control, and the Department shall request that the Department of Liquor ~~Licenses~~ License and Control issue a citation against the licensee.

ARTICLE 5. ADMINISTRATION

**R15-3-501. ~~Return and payment of tax~~ general Filing of Luxury Tax Reports and Returns**

~~A. All reports and returns required to be filed by the Act under A.R.S. Title 42, Chapter 3 or these rules this Chapter shall be deemed timely filed if postmarked by the U.S. postal service United States Postal Service or common carrier on or before the due date.~~

~~B. If the monthly report form is not available, the taxpayer shall submit the taxpayer's report or return on a plain sheet of paper.~~